

**IT IS THE VENDOR'S RESPONSIBILITY TO  
CHECK FOR ADDENDUM PRIOR TO SUBMITTING PROPOSALS**

## **NOTICE TO BIDDERS SPECIFICATION NO. 06-291**

The City of Lincoln intends to purchase and invites you to submit a sealed bid for:

### **THE ANNUAL REQUIREMENTS FOR WHOLESALE FIELD DIRECT NURSERY STOCK**

#### **MEETING OR EXCEEDING THE CITY OF LINCOLN'S SPECIFICATIONS ATTACHED**

Sealed bids will be received by the City of Lincoln, Nebraska on or before 12:00 noon **Wednesday, October 11, 2006** in the office of the Purchasing Agent, Suite 200, K Street Complex, Southwest Wing, 440 South 8th Street, Lincoln, Nebraska 68508 Bids will be publicly opened and read at the K Street Complex.

**Bids may be downloaded from the City's website at [www.lincoln.ne.gov](http://www.lincoln.ne.gov) (Keyword: bid) Prospective bidders must monitor the bid listing on the city website, for any addendums.**

Bidders should take caution if U.S. mail or mail delivery services are used for the submission of bids. Mailing should be made in sufficient time for bids to arrive in the Purchasing Division, prior to the time and date specified above.

**Fax or e-mail bids are not acceptable. Bid response must be in a sealed envelope.**

COMPANY NAME\_\_\_\_\_

**PROPOSAL  
SPECIFICATION NO. 06-291  
BID OPENING TIME: 12:00 NOON  
DATE: Wednesday, October 11, 2006**

The undersigned, having full knowledge of the requirements of the City of Lincoln/Lancaster County for the below listed phases and the contract documents (which include Notice, Instructions, this Proposal, Specifications, Contract, and any and all addenda) and all other conditions of the Proposal, agrees to enter into a contract with the City the below listed fees for the performance of this Specification, complete in every respect, in strict accordance with the contract documents at and for fees listed below.

**ADDENDA RECEIPT:** The receipt of addenda to the specification numbers through \_\_\_\_ are hereby acknowledged. Failure of any submitter to receive any addendum or interpretation of the specifications shall not relieve the submitter from any obligations specified in the request. All addenda shall become part of the final contract document.

## **BIDDING SCHEDULE**

<u>Item</u>	<u>Description</u>
1	1000
2	2000
3	3000
4	4000
5	5000
6	6000
7	7000
8	8000
9	9000
10	10000

## WHOLESALE FIELD DIRECT NURSERY STOCK

1. Percent off Wholesale Catalog Price \_\_\_\_\_%
2. Volume Discount \_\_\_\_\_%
3. Is there a minimum order amount? Yes\_\_\_\_\_ No \_\_\_\_\_
4. Delivery Costs if any? \$\_\_\_\_\_

## NO BID SECURITY REQUIRED

CONTRACT RENEWAL IS AN OPTION:                      Yes                      No\_\_\_\_\_

TERM PRICE CLAUSE: BIDDER MUST STATE

- (a) Bid prices firm for the full contract period: \_\_\_\_\_; or  
(b) Bid prices subject to escalation/de-escalation: \_\_\_\_\_.  
(c) If (b), state period for which prices will remain firm:  
Through \_\_\_\_\_.

COMPANY REPRESENTATIVE responsible for the administration of this Agreement:

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

PHONE NO. \_\_\_\_\_

**AFFIRMATIVE ACTION PROGRAM** Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16). The equal Opportunity Officer will determine compliance or non-compliance, upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

The undersigned signatory for the bidder represents and warrants that he has full and complete authority to submit this proposal to the City, and to enter into a contract if this proposal is accepted.

**INTERLOCAL PURCHASING:** The City/County desires to make available to other local government entities of the State of Nebraska, by mutual agreement with the successful bidder, and properly authorized inter-local purchasing agreements, the right to purchase the same services, at the prices quoted, for the period of this contract. Each bidder shall indicated on the Bid Form in the space provided below if he/she will honor Political Subdivision orders in accordance with the contract terms and conditions, in addition to orders from City of Lincoln/Lancaster County.

\_\_\_\_\_YES \_\_\_\_\_NO

If **AYES**, Contract supplier or suppliers may honor pricing and extend the contract to political sub-divisions, cities and counties. Terms and conditions of the contract must be met by political sub-divisions, cities and counties. Under no circumstances shall the City of Lincoln/Lancaster County be contractually obligated or liable for any purchases by these political sub-divisions, cities or counties.

The undersigned signatory for the bidder represents and warrants that he has full and complete authority to submit this proposal to the City, and to enter into a contract if this proposal is accepted.

**NOTE:**

**RETURN 2 COMPLETE COPIES OF PROPOSAL AND SUPPORTING MATERIAL.**

**MARK OUTSIDE OF BID ENVELOPE AS FOLLOWS:**

**SEALED BID FOR SPEC. 06-291 and  
Your Company's Name**

\_\_\_\_\_  
**COMPANY NAME**

\_\_\_\_\_  
**BY (Signature)**

\_\_\_\_\_  
**STREET ADDRESS or P.O. BOX**

\_\_\_\_\_  
**(Print Name)**

\_\_\_\_\_  
**CITY, STATE ZIP CODE**

\_\_\_\_\_  
**(Title)**

\_\_\_\_\_  
**TELEPHONE**

\_\_\_\_\_  
**(Date)**

\_\_\_\_\_  
**E-MAIL ADDRESS**

Bids may be inspected in the Purchasing Division during normal business hours after tabulation and review by a Purchasing Agent. Bid tabulations can be viewed on our website at: [lincoln.ne.gov](http://lincoln.ne.gov) Keyword: Bid A Letter of Intent will be listed on the website when a recommendation is received from the Department.

**SPECIFICATIONS FOR NURSERY STOCK  
(PLANT MATERIALS ONLY – SOLD WHOLESALE FIELD DIRECT)**

**SPECIFICATIONS  
FOR  
NURSERY STOCK  
Specification 06-219**

**1. SCOPE OF PROJECT**

- 1.1 Contractor shall furnish nursery stock as ordered by the City of Lincoln Parks & Recreation Department during the term of the agreement.
- 1.2 Planting and establishment of nursery stock will be the responsibility of the City of Lincoln and contractor will not be required to replace nursery stock which does not survive.
- 1.3 Term of initial agreement will be for one (1) year; with options to renew for two (2) additional one-year terms.

**2. CONTRACTOR QUALIFICATIONS**

- 2.1 Contractor must possess a valid and current Nursery Grower License from the authorizing agency in the state(s) in which its nursery business is located and operated in.
- 2.2 Contractor shall provide copy of their current and valid Nursery Grower License when submitting bid.

**3. CITY OF LINCOLN QUALIFICATIONS**

- 3.1 City of Lincoln Parks & Recreation Department shall possess a valid and current State of Nebraska Nursery Dealer License (License # 911 issued by the State of Nebraska Department of Agriculture Plant Industry Division), as required by the Nebraska Plant Protection & Plant Pest Act.

**4. MATERIAL SPECIFICATIONS**

- 4.1 Nursery stock shall conform to all applicable sections of Chapter 31 of the City of Lincoln Nebraska Standard Specifications for Landscape Work <http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stdndspec/index.htm>
- 4.2 Specified nursery stock ordered shall also conform to AMERICAN STANDARD FOR NURSERY STOCK (ANSI Z 60.1 – 2004 or most current standard.)
- 4.3 Nursery stock ordered shall also conform to the following guideline specifications in **ATTACHMENT "A"**.

**5. ORDERING REQUIREMENTS**

- 5.1 Quantities, types and sizes of nursery stock ordered will be based upon the specific needs of the City of Lincoln.
- 5.2 No guarantees are given or implied to contractor that the City of Lincoln is obligated to purchase nursery stock as a term of agreement.
- 5.3 Orders for nursery stock will be placed by FAX or email by the City of Lincoln Parks & Recreation Department and shall include specified nursery stock species, sizes, and quantities needed and delivery location to the City of Lincoln, Nebraska.

## **6. DELIVERY**

- 6.1 Orders placed by the City of Lincoln shall specify the desired shipping method and shipping date. Ordered nursery stock being shipped on a combination truckload via motor freight shall require that the nursery's shipping department contact the City of Lincoln Parks & Recreation Department approximately 3 to 7 days prior to loading to coordinate delivery.
- 6.2 Acceptance of nursery stock deliveries to the City of Lincoln Parks & Recreation Department will only be done on a scheduled basis and during the normal working hours of the Forestry Section (Monday – Friday, 7:30 AM to 4:00 PM.)
- 6.3 Deliveries shall be made to the City of Lincoln Forestry Section Shop located at 244 S. 21<sup>st</sup> Street, Lincoln, Nebraska 68510, unless otherwise specified.

## **7. BIDDING PROCEDURE AND CONTRACT PRICING**

- 7.1 Instructions to Bidders and Special Provisions for Commodity Term Contracts shall apply.
- 7.2 Bidders shall submit their bid documents with their bid documents a current nursery catalog listing available nursery stock, direct volume discounts offered, shipping information, terms and conditions, and associated **wholesale price lists**.
  - 7.2.1 **Bidders shall clearly state if their published catalog and/or price lists are wholesale prices given per plant and if such prices do or do not include transportation charges.**
- 7.3 It is understood that commodity contract pricing shall include catalog wholesale prices of nursery stock, but no warranty period.
- 7.4 Contractor shall submit a revised updated catalog of available nursery stock and price list preceding each renewal date for approval by the City of Lincoln.
- 7.5 Wholesale prices indicated in revised catalog and/or price lists shall remain firm for the renewal period and any discounts offered at the time of bid shall remain firm for the entire contract period.

## **8. INQUIRIES**

- 8.1 Contact Tom Kopplin, City of Lincoln Asst. Purchasing Agent, in writing at [tkopplin@lincoln.ne.gov](mailto:tkopplin@lincoln.ne.gov) with any questions regarding this bid no later than five (5) days before the bid opening.

**Guideline Specifications for Quality Nursery Stock**

**I. PROPER IDENTIFICATION**

All nursery stock shall be true to name as ordered or shown and shall be labeled individually or in groups by species and cultivar (*where appropriate*).

**II. COMPLIANCE**

All nursery stock shall comply with federal and state laws and regulations requiring inspection for plant disease, pests and weeds. Inspection certificates required by law shall accompany each shipment of plants. Even though trees may conform to county, state, and federal laws, the buyer may impose additional requirements.

**III. CHARACTERISTICS OF TREE NURSERY STOCK AT THE TIME OF SALE OR DELIVERY**

**A. TREE HEALTH**

As typical for the species/cultivar, trees shall be healthy and vigorous, as indicated by an inspection for the following:

1. Trees shall be relatively free of pests (*insects, pathogens, nematodes or other injurious organisms*).
2. The following characteristics shall apply and be present in all nursery stock ordered:
  - a. **Crown Form:** The form or shape of the crown is typical for a young specimen of the species/ cultivar. The crown is not significantly deformed by wind, pruning practices, pests or other factors.
  - b. **Leaves:** The size, color and appearance of leaves are typical for the time of year and stage of growth of the species/cultivar. Leaves are not stunted, misshapen, tattered, discolored (*chlorotic or necrotic*) or otherwise atypical.
  - c. **Branches:** Shoot growth (*length and diameter*) throughout the crown is typical for the age/ size of the species/cultivar. Trees do not have dead, diseased, broken, distorted or other serious branch injuries.
  - d. **Trunk:** The tree trunk should be fairly straight, vertical and free of wounds (*except properly– made pruning cuts*), sunburned areas, conks (*fungal fruiting bodies*), wood cracks, bleeding areas, signs of boring insects, galls, cankers/lesions and girdling ties.
  - e. Tree height and trunk diameter are typical for the age, species/cultivar and container size.
  - f. **Roots:** The root system is free of injury from biotic (*insects, pathogens, etc.*) and abiotic agents (*herbicide toxicity, salt injury, excess irrigation, etc.*). Root distribution is uniform throughout the soil mix or growth media and growth is typical for the species/cultivar.

## B. CROWN

1. **Central Leader:** Trees shall have a single, relatively straight central leader and tapered trunk, free of co-dominant stems and vigorous, upright branches that compete with the central leader. If the original leader has been headed, a new leader at least  $\frac{1}{2}$  (*one-half*) the diameter of the original leader shall be present.

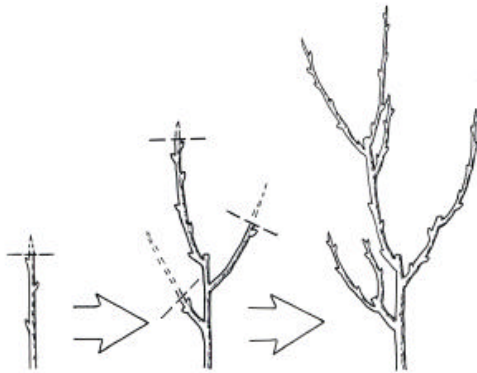
Maintaining a single, central leader is preferable.

Heading and retaining a leader is acceptable.

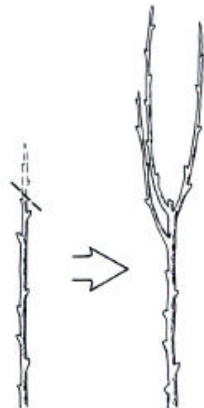
Heading without retaining a leader is unacceptable.



Maintaining a single, central leader is preferable.



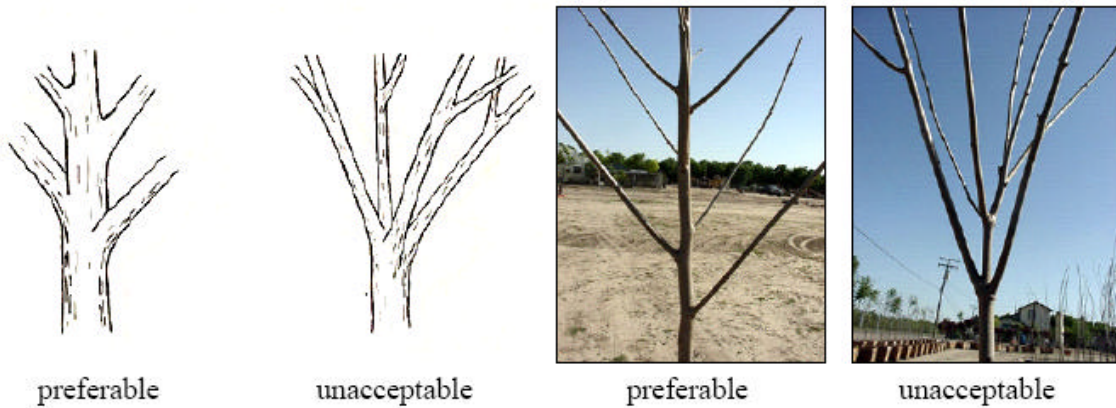
Heading and retaining a leader is acceptable.



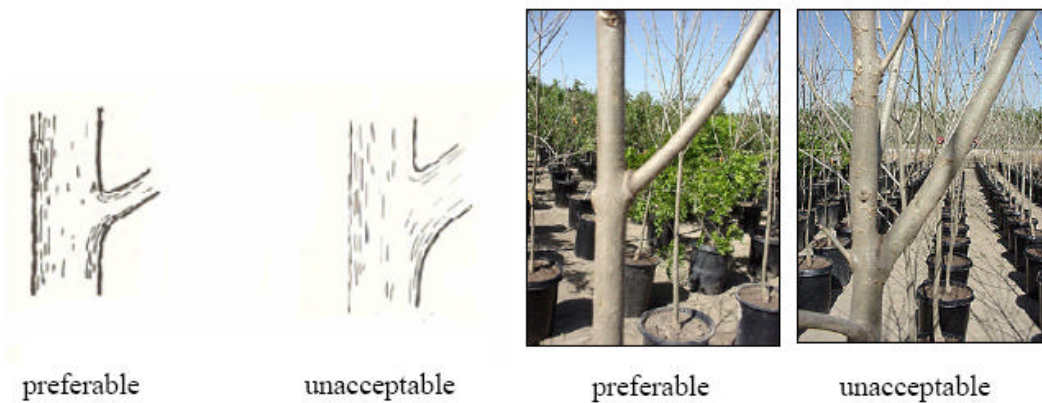
Heading without retaining a leader is unacceptable.

2. **Main Branches (scaffolds):** Branches should be distributed radially around and vertically along the trunk, forming a generally symmetrical crown typical for the species.

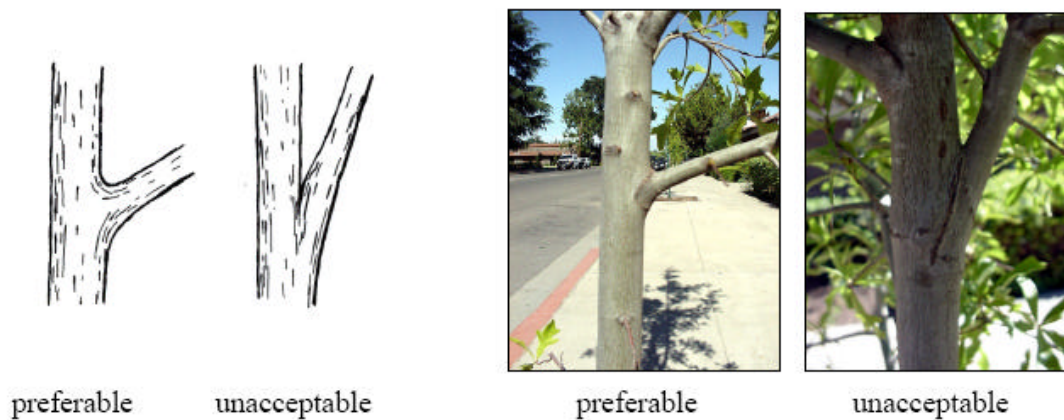
a) **Main branches**, for the most part, shall be well spaced.



b) **Branch diameter** shall be no greater than  $\frac{2}{3}$  (*two thirds*) the diameter of the trunk, measured 1" (*one inch*) above the branch.



c) The attachment of scaffold branches shall be free of **included bark**.



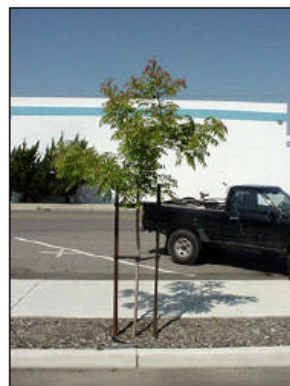
3. **Temporary branches:** Temporary branches should be present along the lower trunk, particularly for trees less than 1-1/2" (*one and one-half inches*)



in trunk diameter. They should be no greater than 3/8" (*three-eighths inch*) in diameter. Heading of temporary branches are often necessary to limit their growth.



Good



Not as Good

### C. TRUNK

1. **Trunk diameter and taper** shall be sufficient so that the tree will remain vertical **without** the support of a nursery stake.



2. The **trunk shall be free of wounds** (*except properly-made pruning cuts*), sunburned areas, conks (*fungal fruiting-bodies*), wood cracks, bleeding areas, signs of boring insects, galls, cankers and/or lesions.
3. **Trunk diameter** at 6" (*six inches*) above the soil surface shall be within the diameter range shown for each container size below:

Container Size	Trunk Diameter ( <i>inches</i> )
# 5 (gallon)	0.5" to 0.75"
# 15 (gallon)	0.75" to 1.5"
# 25 (gallon)	1.5" to 2.5"

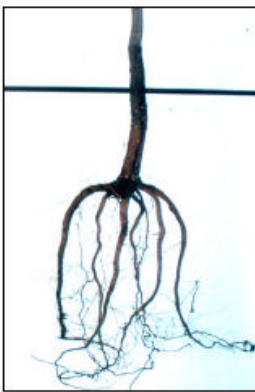
Trunk	Minimum	Minimum	Minimum	Minimum	Minimum	Maximum
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Caliper (inches)	rootball diameter on <b>field grown</b> shade trees	rootball diameter on <b>fabric container grown</b> trees	<b>container</b> size (gallons)	tree height on standard trees	tree height on slower grown trees	tree height
1	16	12	5	6	5	10
2	24	18	20	10	8	14
3	32	30	45	12	9.5	16
4	42	30	95	14	10.5	18
5	54	36	95			

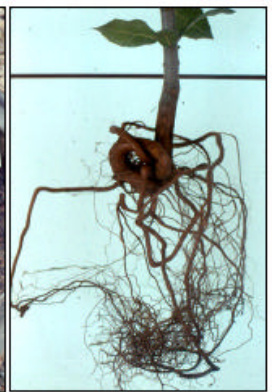
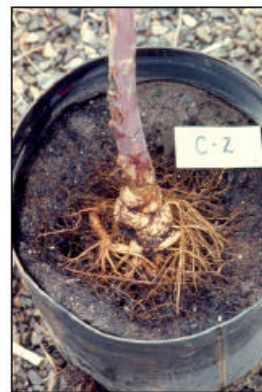
Specifications taken from American Standard for Nursery Stock – ANSI Z60.1 - 2004

#### D. ROOTS

1. The trunk, **root collar** (*root crown*) and large roots shall be free of circling and/or kinked roots. Soil removal near the root collar may be necessary to inspect for circling and/or kinked roots.



preferable

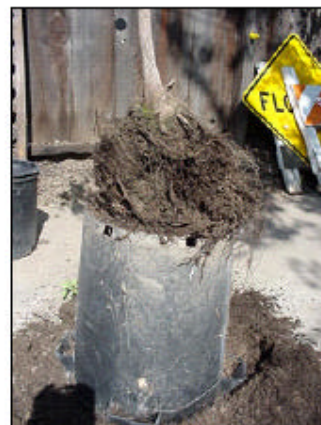


unacceptable

2. The tree shall be **well rooted** in the soil mix. When the container is removed, the rootball shall remain intact. When the trunk is carefully lifted both the trunk and root system shall move as one.



preferable



unacceptable

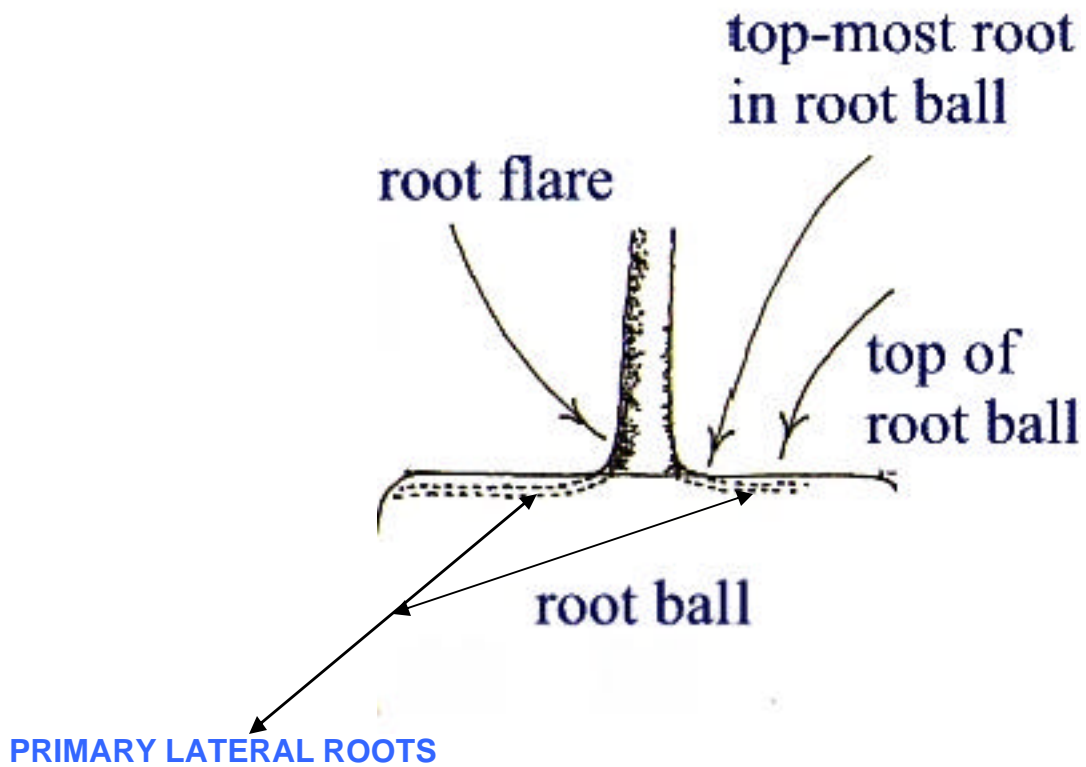
3. The **upper-most roots** or root collar shall be within 1" (*one inch*) above or below the soil surface.



preferable



unacceptable



4. The **rootball periphery** should be free of large circling and bottom-matted roots. The acceptable diameter of circling peripheral roots depends on species and size of rootball. The maximum acceptable size should be indicated for the species (*if necessary*).



preferable



unacceptable

#### E. MOISTURE STATUS

At time of inspection and delivery, the rootball shall be moist throughout. The crown shall show no signs of moisture stress as indicated by wilted, shriveled or dead leaves or branch dieback. The roots shall show no signs of excess soil moisture conditions as indicated by poor root growth, root discoloration, distortion, death or foul odor.

#### IV. INSPECTION

**The buyer reserves the right to reject trees that do not meet specifications as set forth in these guidelines.** If a particular defect or substandard element or characteristic can be easily corrected, appropriate remedies shall be required. If destructive inspection of a rootball(s) is to be done, the buyer and seller should have a prior agreement as to the time and place of inspection, minimum number of trees or percentage of a species or cultivar to be inspected and financial responsibility for the inspected trees.

## **GLOSSARY**

<b>Codominant</b>	Two or more vigorous and upright branches of relatively equal size that originate from a common point, usually where the leader has been lost or removed.
<b>Crown</b>	The aboveground part of the tree including the trunk.
<b>Cultivar</b>	A named plant selection from which identical or nearly identical plants can be produced, usually by vegetative propagation or cloning.
<b>Girdling root</b>	A root that partially or entirely encircles the trunk and/or buttress roots, which could restrict growth and downward movement of photosynthate and/or water and nutrients up.
<b>Included bark</b>	Bark embedded within the crotch between a branch and the trunk or between two or more stems that prevents the formation of a normal branch bark ridge. This often occurs in branches with narrow-angled attachments or branches resulting from the loss of the leader. Such attachments are weakly attached and subject to splitting out.
<b>Kinked root</b>	A primary root(s), which is sharply bent, causing a restriction to water, nutrient, and photosynthate movement. Kinked roots may compromise the structural stability of root systems.
<b>Leader</b>	The dominant stem which usually develops into the main trunk.
<b>Photosynthate</b>	Pertains to sugar and other carbohydrates that are produced by the foliage during photosynthesis, an energy trapping process.
<b>Root collar</b>	The flared area at the base of a tree where the roots and trunk merge. Also referred to as the "root crown" or "root flare".
<b>Shall</b>	Used to denote a practice that is mandatory.
<b>Should</b>	Used to denote a practice that is recommended.
<b>Scaffold branches</b>	Large, main branches that form the main structure of the tree.
<b>Temporary branch</b>	A small branch that is retained temporarily along the lower trunk of young trees. Temporary branches provide photosynthate to increase trunk caliper and taper and help protect it from sunburn damage and mechanical injury. Such branches should be kept small and gradually removed as the trunk develops.
<b>Trunk</b>	The main stem or axis of a tree that is supported and nourished by the roots and to which branches are attached.



# INSTRUCTIONS TO BIDDERS

## CITY OF LINCOLN, NEBRASKA

### PURCHASING DIVISION

#### **1. BIDDING PROCEDURE**

- 1.1 Bidder shall submit one (1) complete set of the bid documents and all supporting material, unless otherwise stipulated. All appropriate blanks shall be completed. Any interlineation, alteration or erasure on the specification document shall be initialed by the signer of the bid. Bidder shall not change the proposal form nor make additional stipulations on the specification document. Any amplified or qualifying information shall be on the bidder's letterhead and firmly attached to the specification document.
- 1.2 Bid prices shall be submitted on the Proposal Form included in the bid document.
- 1.3 Bidders may submit a bid on an "all or none" or "lump sum" basis, but should also submit a quotation on an item-by-item basis. Bidding documents shall be clearly marked indicating the kind of proposal being submitted.
- 1.4 Any person signing a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.5 Bids received after the time and date established for receiving bids will be rejected.
- 1.6 If bidding on a Construction Contract, the City of Lincoln's Standard Specifications for Municipal Construction 2006 shall apply.
  - 1.6.1 Bidders may obtain this document from the City's Design Engineering Division of Public Works & Utilities for a small fee.
  - 1.6.2 Said document can be reviewed at Design Engineering or the Purchasing Division.
  - 1.6.3 The Standard Conditions are available on the web site.  
<http://www.lincoln.ne.gov/city/pworks/engine/doconst/standard/stdnspec/index.htm>

#### **2. BIDDER'S SECURITY**

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bidder's bond, may be required to be submitted with this bid document, as indicated on the Proposal Form.
- 2.2 If alternates are requested, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful bidder(s) as follows:
  - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the City.
  - 2.4.2 For all other contracts: upon approval by the City of the executed contract and bonds.
- 2.5 City shall have the right to retain the bid security of bidders to whom an award is being considered until either:
  - 2.5.1 A contract has been executed and bonds have been furnished.
  - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
  - 2.5.3 All bids have been rejected.
- 2.6 Bid security will be forfeited to the City as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this specification document:
  - 2.6.1 If the bidder fails to deliver the equipment or merchandise in full compliance with the accepted proposal and specifications.
  - 2.6.2 If the bidder fails or refuses to enter into a contract on forms provided by the City, and/or if the bidder fails to provide sufficient bonds or insurance within the time period as established in this specification document.

#### **3. BIDDER'S REPRESENTATION**

- 3.1 Each bidder by signing and submitting a bid, represents that the bidder has read and understands the specification documents, and the bid has been made in accordance therewith.
- 3.2 Each bidder for services further represents that the bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bid documents.

#### **4. CLARIFICATION OF SPECIFICATION DOCUMENTS**

- 4.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the specification documents.

- 4.2 Bidders desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least five (5) calendar days prior to the date and time for receipt of bids.
- 4.3 Changes made to the specification documents will be made by written addenda to all known prospective bidders.
- 4.4 Oral interpretations or changes to the Specification Documents made in any other manner, will not be binding on the City; and bidders shall not rely upon such interpretations or changes.

#### **5. ADDENDA**

- 5.1 Addenda are additional documents issued by the City to prospective Bidders prior to the closing date for receipt of bids, which are intended to change or clarify the original plans and/or specifications, i.e. additions, deletions, modifications, or explanations.
- 5.2 Addenda will be mailed or delivered to all who are known by the City to have received a complete set of specification documents.
- 5.3 Copies of addenda will be made available for inspection at the office of the Purchasing Agent.
- 5.4 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.
- 5.5 Bidders shall ascertain prior to submitting their bid that they have received all addenda issued, and they shall acknowledge receipt of addenda on the proposal form.

#### **6. ANTI-LOBBYING PROVISION**

- 6.1 During the period between the bid advertisement date and the contract award, bidders, including their agents and representatives, shall not lobby or promote their bid with any member of the City Council or City Staff.

#### **7. BRAND NAMES**

- 7.1 Wherever in the specifications or proposal form brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 7.2 It is the bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the City that said item is equal to, or better than, the product specified.
- 7.3 Bids for alternate items shall be stated in the appropriate brand on the proposal form, or if the proposal form does not contain blanks for alternates, bidder MUST attach to the specification documents on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation. The bidder must indicate any variances by item number from the specification document no matter how slight. Bidder must fully explain the variances from the specification document, since brochure information may not be sufficient.
- 7.4 If variations are not stated in the proposal, it will be assumed that the item being bid fully complies with the City's specifications.

#### **8. DEMONSTRATIONS/SAMPLES**

- 8.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the City.
- 8.2 Such demonstration can be at the City delivery location or a surrounding community.
- 8.3 If the bidder is proposing an alternate product, the City may request a sample of the exact item. Samples will be returned at bidder's expense after receipt by the City of acceptable goods. Bidders must indicate how samples are to be returned.

#### **9. DELIVERY (Non-Construction)**

- 9.1 Each bidder shall state on his proposal form the date upon which he can make delivery of all equipment or merchandise.
- 9.2 The City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the proposal form.
- 9.3 All bids shall be based upon **inside** delivery of the equipment/ merchandise F.O.B. the City at the location specified by the City, with all transportation charges paid.
- 9.4 At the time of delivery, a designated City of Lincoln/Lancaster County employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This

signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

#### **10. WARRANTIES, GUARANTEES AND MAINTENANCE**

- 10.1 Copies of the following documents must accompany the bid proposal for all items being bid:
  - 10.1.1 Manufacturer's warranties and/or guarantees.
  - 10.1.2 Bidder's maintenance policies and associated costs.
- 10.2 As a minimum requirement of the City, the bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the City. Replacement parts of defective components shall be shipped at no cost to the City. Shipping costs for defective parts required to be returned to the bidder shall be paid by the bidder.

#### **11. ACCEPTANCE OF MATERIAL**

- 11.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 11.2 Material delivered under this proposal shall remain the property of the bidder until:
  - 11.2.1 A physical inspection and actual usage of this material is made and found to be acceptable to the City; and
  - 11.2.2 Material is determined to be in full compliance with the specifications and accepted proposal.
- 11.3 In the event the delivered material is found to be defective or does not conform to the specification documents and accepted proposal, then the City reserves the right to cancel the order upon written notice to the bidder and return materials to the bidder at bidder's expense.
- 11.4 Successful bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the City of Lincoln, Nebraska, as required by the specification documents or purchase orders.
- 11.5 Selling dealer's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

#### **12. BID EVALUATION AND AWARD**

- 12.1 The signed bid proposal shall be considered an offer on the part of the bidder. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 12.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each bidder so agrees in submitting the bid.
- 12.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 12.4 The bid will be awarded to the lowest responsible, responsive bidder whose proposal will be most advantageous to the City, and as the City deems will best serve its requirements.
- 12.5 The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities in bids; such as shall best serve the requirements and interests of the City.
- 12.6 In order to determine if the Bidder has the experience, qualifications, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by the City. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.
- 12.7 The City reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the Bid Proposal incomplete, indefinite or ambiguous.

#### **13. INDEMNIFICATION**

- 13.1 The bidder shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or

destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Bidder, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless the City of Lincoln for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.

- 13.2 In any and all claims against the City or any of its members, officers or employees by an employee of the bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 13.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the bidder or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

#### **14. TERMS OF PAYMENT**

- 14.1 Unless stated otherwise, the City will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

#### **15. LAWS**

- 15.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.
- 15.2 Bidder agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

#### **16. AFFIRMATIVE ACTION**

- 16.1 The City of Lincoln-Lancaster County Purchasing Division provides equal opportunity for all bidders and encourages minority businesses and women's business enterprises to participate in our bidding process.

#### **17. LIVING WAGE**

- 17.1 The bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.

#### **18. EXECUTION OF AGREEMENT**

- 18.1 Depending on the type of service provided, one of the following three (3) methods will be employed. The method applicable to this contract will be checked below:
  - ☐ a. This Contract shall consist of a **PURCHASE ORDER** and a copy of the suppliers signed bid (or referenced bid number) attached and that the same, in all particulars, becomes the agreement and contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents, and that the parties are bound thereby and the compensation to be paid the Supplier is as set forth in the Supplier's Bid. Items not awarded, if any, have been deleted.
  - ☒ b. The contract shall consist of a **YEARLY AGREEMENT** and a copy of the suppliers signed bid attached and that the same, in all particulars, becomes the agreement and contract between the parties hereto. That both parties thereby accept and agree to the terms and conditions of said bid documents, and that the parties are bound thereby and the compensation to be paid the Supplier is as set forth in the Suppliers' Bid. Items not awarded, if any, have been deleted.
  - ☐ c. Three (3) copies of the **CONTRACT**, unless otherwise noted.
    - 1. City will furnish three (3) copies of the Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance, surety bonds properly executed, and Agreement signed with the date of signature shall be attached.
    - 2. The prepared documents shall be delivered to the City within 10 days (unless otherwise noted).
    - 3. The City will sign the Contract Agreement, insert the date of signature at the beginning of the Contract Agreement, prepare an Executive Order to go the Mayor for signature.
    - 4. Upon approval and signature from the Mayor, the City will return one copy to the Contractor.

# **SPECIAL PROVISIONS FOR COMMODITY TERM CONTRACTS**

## **CITY OF LINCOLN, NEBRASKA PURCHASING DIVISION**

### **1. ESTIMATED QUANTITIES**

- 1.1 The quantities set forth in the specification document are approximate and represent the estimated requirements of the City for the contract period.
- 1.2 Items listed may or may not be inclusive of City requirements for this category.
- 1.3 Category items not listed, but distributed by bidder are to be referred to as kindred items. Kindred items shall receive the same percentage of discount or pricing structure as items listed in the specification document.
- 1.4 The unit prices and the extended total prices shall be used only as a basis for the evaluation of bids. The actual quantity of materials necessary may be more or less than the estimates listed in the specification document, but the City shall be neither obligated nor limited to any specified amount. The City will, if possible, restrict increases/decreases to 20% of the estimated quantities listed in the specification document.

### **2. CONTRACT PERIOD**

- 2.1 The material shall be delivered as ordered during the contract period, beginning from the date of contract and ending one (1) year from that date, or as otherwise indicated on the proposal form.
- 2.2 The City is interested in a one (1) year contract, with the option to renew for no more than **two** (2) additional one (1) year renewals. Bidder must indicate on the proposal form if extension renewals are an option. By mutual consent of both parties it is understood and agreed that the contract may be renewed only at the same prices and/or under the same conditions governing the original contract; and any request for an increase in price or a change in the contract conditions shall be interpreted as a request not to renew the contract at the end of the current contract period.

### **3. BID PRICES**

- 3.1 Bidders must state on the proposal form if the bid prices will remain firm for the full contract period; or if the bid prices will be subject to escalation/de-escalation.
- 3.2 **Escalation/De-escalation Clause:** In the event that prevailing market conditions warrant an adjustment in bid prices contained in the contract, the following escalation/de-escalation clause shall be the only clause applicable or acceptable to the City:
  1. Contractor shall give written notice to the Purchasing Agent of any proposed changes from contract prices not less than thirty (30) calendar days prior to the effective date of said price changes.
  2. Such notice must be accompanied by a certified copy of the supplier's advisory or notification to the contractor of price changes.
  3. No price escalation will be authorized in excess of the amount of the increase referred to on the supplier's notice.
  4. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.
  5. Approved price changes are not applicable to orders already issued and in process at time of price change.
  6. The City reserves the right to audit and/or examine any pertinent books, documents, papers, records or invoices relating directly to the contract transaction in question after reasonable notice and during normal business hours.

7. The Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interests of the City.
8. If in the opinion of the Purchasing Agent any proposed increase is found unacceptable, the Purchasing Agent reserves the right to cancel the contract upon thirty (30) calendar days written notice.
9. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index, or some other form of verifiable document. Contractor will put the Purchasing Agent on the mailing lists for such publication so that the Purchasing Agent can monitor said changes. Such membership will be at no cost to the City.

### **4. CONTRACT AWARD NOTIFICATION**

- 4.1 The Purchasing Division will issue a Contract Award Notification to all successful bidders. Such contract award notification will incorporate the City's specifications, and may incorporate the bidder's specifications.
- 4.2 No action need be taken by the contractors at time of receipt of such Contract Award Notification.
- 4.3 Orders for materials will be made as needed by the various City Departments.

### **5. QUARTERLY REPORT**

- 5.1 The contractor shall provide to the Purchasing Agent a quarterly report, showing all purchases made under the terms and conditions of the contract.
- 5.2 Such quarterly report shall itemize the following information:
  1. Each ordering department.
  2. Items and quantities purchased by department.
  3. Total dollar amount of purchases by department

### **6. TERMINATION OF CONTRACT**

- 6.1 This contract may be terminated by either party upon thirty (30) days prior notice in writing to the other party. The Owner may terminate this contract immediately, under breach of contract, if the Contractor fails to perform in accordance with the terms and conditions. In the event of any termination of contract by the Contractor, the Owner may purchase such supplies and/or services similar to those so terminated, and for the duration of the contract period the Contractor will be liable for all costs in excess of the established contract pricing.